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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,461	11/30/1999	HIDEKAZU KOJIMA	104651	6769

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EXAMINER
AN, SHAWN S

ART UNIT	PAPER NUMBER
2613	

DATE MAILED: 03/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/423,461	Hidekazu Kojima et al.
Examiner	**Art Unit**
Shawn An	2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *three* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Dec 30, 2001* .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-6* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's election with traverse of Figure 1 which reads on claims 1-6 in Paper No. 11 is acknowledged. The traversal is on the ground(s) that the search and examination of the entire application could be made without serious burden. This is not found persuasive because burden is proved by the five distinct species, which follows:

Species I - Fig.. 1; Species II - Fig. 2;

Species III - Fig. 3; Species IV - Fig. 4; and

Species V - Fig. 5;

The prior art searching and a prosecution clearly would be a burden based on the five species. Furthermore, a burden and a distinct are two separate criterion. The burden is met by five species and the distinct is met by the diverse elements between the drawings, wherein one embodiment is not deemed obvious over any other species identified. Since Applicant traverse on the ground that the search and examination of the entire application could be made without serious burden, Applicant should submit evidence or identify such evidence now of record showing the species to be obvious variant or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The requirement is still deemed proper and is therefore made FINAL.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Fig. 1, 23. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Hattori (6,034,718).

Regarding claim 1, Hattori discloses an optical fiber observing image processing apparatus and processing image data of the optical fibers shot-taken by cameras, comprising:

an image capturing means (Fig. 1, 2a, 2b) capturing image data from at least two cameras and image processing only desired image data from each of the cameras;

the image capturing means has two or more different capturing modes regarding the capturing of the image data, the capturing modes can automatically be switched in synchronious with from process of the image processing (col. 3, lines 6-35).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hattori (6,034,718) in view of Hignette et al (5,191,393).

Regarding claims 2-6, Hattori discloses an optical fiber observing image processing apparatus and processing image data of the optical fibers shot-taken by cameras, comprising:

an image capturing means (Fig. 1, 2a, 2b) capturing image data from at least two cameras and image processing only desired image data from each of the cameras;

the image capturing means has two or more different capturing modes regarding the capturing of the image data, the capturing modes can automatically be switched in synchronious with from process of the image processing (col. 3, lines 6-35), and the capturing mode include at least two of a capturing mode in which the image data can be

captured from the cameras from frame to frame and field to field and the image data from cameras can be captured by successively switching cameras from frame to frame and field to field (note: a frame can be divided into two fields). Furthermore, the Examiner takes official notice that it is conventionally well known for the cameras to capture image data from frame to frame or field to field and the image data from cameras can be captured by successively switching cameras from frame to frame or field to field.

Hattori does not particularly disclose a capturing mode in which image data can be captured from cameras from pixel to pixel and successively switching the cameras from pixel to pixel .

However, Hignette et al teaches a capturing mode in which image data can be captured from cameras from pixel to pixel and successively switching the cameras from pixel to pixel (col. 6, lines 58-68).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing an optical fiber observing image processing apparatus as taught by Hattori to incorporate the concept of the capturing mode in which image data can be captured from cameras from pixel to pixel and successively switching the cameras from pixel to pixel as taught by Hignette et al in order to better measure a position of the optical fibers.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

A) Osaka et al (6,287,020 B1), Observation apparatus and fusion splicer for optical fibers.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn An whose telephone number (703) 305-0099 and schedule are Tuesday through Friday.

SHAWN S. AN
PATENT EXAMINER

SSA

March 5, 2003